

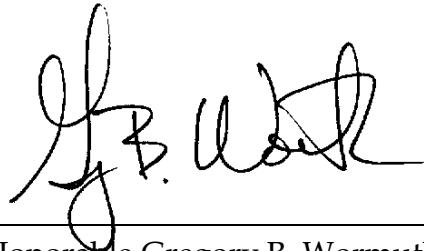
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ORDER AWARDING ATTORNEY FEES & COSTS UNDER EAJA

THIS MATTER is before the Court on Plaintiff's Motion for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412 (*doc.* 33) and the Commissioner's Response (*doc.* 34). The Commissioner has no objection to Plaintiff's request for \$6.989.01 in fees, but he does request that the Court direct payment to Plaintiff instead of Plaintiff's counsel. Indeed, fees awarded under the EAJA are awarded to the litigant, not her counsel. *Astrue v. Ratliff*, 130 S. Ct. 2521, 2526-27 (2010); *see also Manning v. Astrue*, 510 F.3d 1246, 1254 (10th Cir. 2007).

Defendant also requests that, in the event Plaintiff's counsel is later granted fees pursuant to 42 U.S.C. §406(b), she refund the smaller award to Plaintiff. *Doc. 34.* The Court need not address this issue until a motion for such fees has been filed.

IT IS THEREFORE ORDERED that attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. §2412(d), payable to Plaintiff in the amount of \$6,989.01.



Honorable Gregory B. Wormuth
U.S. Magistrate Judge